

## **REMARKS**

### **Drawings and Specification**

At page 2 of the Office Action, the drawings are objected to as failing to comply with 37 CFR 1.84(p)4 for the reasons expressed in the Office Action.

In response, a set of formal drawings is presented, which clarify the drawings and substitute numerical call out numbers.

The specification has likewise been amended to reflect the changes in the drawings. No new matter has been entered.

### **35 U.S.C. §102(b)**

At page 3 of the Office Action, claims 1,7 and 9 were rejected under 35 U.S.C. §102(b) as being anticipated by US Patent No. 2,757,495 (Reichel).

Applicant respectfully traverses the rejection of the claims to the extent this rejection is applied to the claims as now presented.

Reichel produces tubing which is slit open to produce a sheet (column 5, lines 40 to 47). A solvent or adhesive is applied to one edge of the sheet as it proceeds to the tube-forming sleeve 73 (column 5, lines 56 to 59) where the edges of the sleeve are overlapped and sealed together.

The Office Action takes the position that Reichel incorporates by reference Conti (US Patent No. 2,686,128). The Applicant is unable to locate the portion of Reichel that incorporates by reference the Conti patent. However, Applicant does note that at column 5, line 74 through column 6, line 6, Reichel refers to the Conti patent as disclosing a system that may replace the stuffing and tube-forming systems shown in Reichel. Conti teaches the use of an alkaline adhesive material (column 2, line 20); see also column 3, lines 60 to 62; and column 4, lines 6, 14, 31, 50. A heating means, such as an electric heating coil or infrared lamp, is disclosed at column 5, but these heating devices are taught apparently as means to enhance the efficacy of the adhesive, e.g. to quicken the final setting of the adhesive (column 5, lines 42 to 57).

Thus, neither Reichel nor Conti teach the invention as now claimed, and including the process step of forming said flat web of packaging material around a fed product and longitudinally heat sealing the packaging material formed around the product (see amended claim 1), or the element of a heat sealing means for longitudinally heat sealing the packaging material formed around the product (see claim 7).

The claims as amended are therefore patentably distinct from, and not anticipated by, Reichel.

### 35 U.S.C. §103

On page 3 of the Office Action, claims 2 to 6, 8, and 10 to 15 were rejected under §103(a) as being unpatentable over US Patent No. 2,757,495 (Reichel).

Applicant respectfully traverses the rejection of the claims to the extent this rejection is applied to the claims as now presented.

The Office Action fails to point to any teaching in Reichel that refers to the vacuum packaging of articles (claim 2), tracking with sensors the web and the products (claims 4, 13, and 15), cutting edges of the web 9 (claims 5 and 12), and impulse sealing (claims 6 and 11). The §103 rejection apparently acknowledges this lack of teaching in Reichel.

The Office Action concludes that these features

are well known in the packaging art and would have been obvious modification for their inherent benefits.

Applicant respectfully disagrees. No objective evidence has been set forth in the Office Action to demonstrate the combination of any of the recited features with the other claim elements. The Office Action does not make out a *prima facie* case of obviousness because the Office Action provides no support *in the prior art* for applicant's recitation of relevant claims reciting the above respective elements. To establish a *prima facie* case of obviousness, there must be i.a. the teaching or suggestion to make the claimed combination and the reasonable expectation of success, and both must be found in the prior art, and not based on applicant's disclosure. MPEP §706.02 (j). No such motivation has been demonstrated here.

On page 3 of the Office Action, claims 1 to 15 were rejected under §103(a) as being unpatentable over US Patent No. 4,947,623 (Saito), in view of Schröder (US Patent No. 4,844,762) or Piltz (US Patent No. 4,813,208) or Buchner (US Patent No. 4,627,221) or Dyer (US Patent No. 3,342,657).

Applicant respectfully traverses the rejection of the claims to the extent this rejection is applied to the claims as now presented.

The Office Action recognizes that Saito lacks the use of a tube for the initial wrapping web. The Office Action then concludes that

[t]he secondary references all teach the concept of feeding of a tubing to a slitting mechanism for longitudinally slitting the tube and an unfolding means for forming the slit tube into a flat web for subsequent use in a packaging operation. It would have been obvious to one skilled in the art to form the web of Saito from a tube as shown by any of the secondary references to ease the formation of the web and to maintain the interior clean.

Applicant respectfully disagrees with this conclusion for two reasons.

First, the Schröder reference does not teach an unfolding means for forming the slit tube into a flat web for subsequent use in a packaging operation. In Schröder, the initial foam tube remains tubular. It undergoes slitting, but still substantially maintains its tubular shape. Certainly, it is not converted into a flat web. See e.g. Figure 2, and column 4, lines 39 to 41; also column 5, lines 54 to 55, where a solid or hollow profile [the product, such as copper or plastic pipe, to be contained] is inserted into the foam jacket 3.

Second, the statement in the Office Action is inapplicable to the claims originally presented, and now presented. Process claim 1 requires the step of forming said flat web of packaging material *around a fed product*. Packaging claim 7 requires forming means for receiving the tensioned flat web and forming the flat web around a fed product.

In Piltz, a flattened web is formed into a tube to make a container ("pipe", column 5, line 16 and Figures 5 and 8); or thermoformed into a tray, column 5, line 61 and Figure 13). The web is not formed around a fed product; on the contrary, the product takes the shape of, or is deposited in, the preexisting container.

In Buchner, beaker containers (column 2, lines 45 to 47) are filled at a filling station (column 3, lines 41 to 43. Again, the web is not formed around the fed product; instead, the product is deposited in the container.

Dyer has to do with film extrusion, where a tubular film is extruded and oriented at a bias to the direction of orientation, and slit. No product is discussed; no reference to reformation into a tube that is then formed around a fed product.

Applicant respectfully submits that the claims as now presented are in condition for allowance, and solicits a Notice of allowance.

The Commissioner is authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. 07-1765.

Respectfully submitted,



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Date

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